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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,706	01/28/2002	David S. Breed	ATI-291	7750
22846	7590	08/25/2004	EXAMINER	
BRIAN ROFFE, ESQ 11 SUNRISE PLAZA, SUITE 303 VALLEY STREAM, NY 11580-6170			TO, TOAN C	
			ART UNIT	PAPER NUMBER
			3616	
DATE MAILED: 08/25/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/058,706

Applicant(s)

BREED ET AL.

Examiner

Toan C To

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-21, 23 and 24 is/are rejected.
- 7) ☐ Claim(s) 6 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Cooper et al (U.S. 6,199,902)

Cooper et al discloses a sensor system for sensing at least one occupant characteristic of a vehicle occupant, comprising: means for transmitting (42A-C) an electromagnetic energy signal toward an occupant location within a vehicle; means for detecting (60) whether absorption of the energy signal by a vehicle occupant occurs and for providing an absorption signal indicative thereof; and means for processing (50) the absorption signal to determine at least one occupant characteristic.

As to claims 2 and 16, Cooper et al discloses a sensor system, wherein means for transmitting (42A-C) includes means for transmitting electromagnetic energy signal toward the occupant location, and means for detecting (60) includes means for detecting absorption of the energy signal.

As to claims 3 and 17, Cooper et al discloses a sensor system, wherein means for processing (50) includes means for determining if a vehicle occupant is present as the occupant characteristic.

As to claims 4 and 18, Cooper et al discloses a sensor system, wherein said means for processing (50) includes means for determining a size of a vehicle occupant as the occupant characteristic (column 7, lines 50-65).

As to claims 5, 7-8, and 19-21, Cooper et al discloses a sensor system, wherein said means for processing (50) includes means for determining location of a vehicle occupant with respect to the vehicle as the occupant characteristic (column 7, lines 50-65).

As to claim 9, Cooper et al discloses, wherein means for transmitting (42A-C) and means for detecting (60) are arranged on a common side of the vehicle occupant location.

As to claim 10, Cooper et al discloses, wherein means for transmitting (42A-C) is a first means for transmitting and the energy signal (44) is a first energy signal, system including a plurality of means for transmitting, each for transmitting an energy signal toward the occupant location, means for detecting (60) includes means for detecting whether absorption of each energy signal by a vehicle occupant occurs and for providing signals indicative thereof.

As to claim 11, Cooper et al discloses, wherein one of plurality of means for transmitting (42A-C) is mounted within a headliner of the vehicle, and another of said plurality of means for transmitting is mounted within an instrument panel of the vehicle.

As to claim 12, Cooper et al discloses, wherein one of a plurality of means for detecting is mounted within a door of the vehicle.

As to claim 13, Cooper et al discloses, wherein means for transmitting (42A-C) is mounted within a portion of the vehicle other than a headliner, and means for detecting (60A-C) is mounted with a portion of the vehicle other than a seat of the vehicle.

As to claim 14, Cooper et al discloses, wherein means for processing (50) includes means for providing a signal indicative of the at least one occupant characteristic for use within an occupant protection system (28).

***Allowable Subject Matter***

3. Claims 6 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

4. Applicant's arguments filed May 3, 2004 have been fully considered but they are not persuasive. The reference as to Cooper et al is still available as prior art against the patentability of claims 1-5, 7-21 and 23-24.

In response to applicant's argument that the subject matter of claims 1-24 is supported in a parent application, U.S. Patent No. 6,039,139, the examiner respectfully disagrees because the following reasons:

With respect to the independent claims 1, 15, 23, and 24, the U.S. Patent No. 6,039,139 ('139) does not support for the subject matter of claims 1, 15, 23, and 24 such as: "means for detecting whether absorption of the energy signal by a vehicle occupant occurs and for providing an absorption signal indicative thereof" in claim 1; "detecting whether absorption of the energy signal by a vehicle occupant occurs;

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providing an absorption signal indicative of the occurrence of energy absorption, and processing the absorption" in claims 15, 23, and 24. In reviewing U.S Patent No. '139, and particularly the section of U.S Patent No. '139 (column 11, lines 16-17) as pointed out by applicant, the examiner has found there is no support in the parent U.S application ('139) for the claimed subject matter as indicated above. With respect to applicant's comment "inherently, some of the ultrasonic wave are absorbed by occupant", the examiner has seen no inherency that the ultrasonic wave could positively perform or disclose the above claimed subject matter. Further, the examiner respectfully request applicant to provide evidence of record to prove that the ultrasonic wave inherently discloses the above claimed subject matter.

For the reasons set forth above, applicant does not has the benefit of early effectively filing date of U.S. Patent No. 6,039,139 (filed March 25, 1998), therefore, the reference as to Cooper et al is considered to be proper prior art against the patentability of claim 1-5, 7-21, 23-24.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan C To whose telephone number is (703) 306-5951. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1113.

T To  
August 22, 2004

**RUTHILAN  
PATENT EXAMINER**  
*Ruth Ilan*  
8/23/04